

ALL QUESTIONS AND RESPONSES

July 15, 2003

Questions Provided by Participants

The following information has been grouped into 10 categories of questions:

- Site Operation – Reston Interfaith Related Issues
- Ensuring Only One Site is Used
- Town of Herndon – Community Related Issues
- Location of Site
- NRC (Neighborhood Resource Center)
- Transportation Issues
- Town Attorney/Legal Issues
- Safety/Immigration Law
- Labor Law
- Housing

SITE OPERATION & RESTON INTERFAITH RELATED ISSUES:

Questions 1a – j:

- a. Reston Interfaith is spiriting this effort. Why isn't Reston being considered as a possible day labor site instead of Herndon?**
- b. If this is a faith-based facility, why can we not place this facility onto Reston Interfaith place of operations?**
- c. Why can't Reston Interfaith find a site in Reston such as the Reston Home Depot for the new day labor site?**
- d. Why doesn't the Interfaith recommend a location in Reston?**
- e. Why can't the Reston Interfaith find a place in Reston?**
- f. If this is a town matter, what does Reston have to do with it? Put it in Reston- they want it.**
- g. Why can't this site be located at a church site? Why in Herndon, not in Reston?**
- h. Why can't Reston house the site? (It looks like we will inherit all of the Reston day laborers.) The extra influx may intensify Herndon resident's opportunities for jobs.**
- i. I am new to town, not familiar with past discussions, but what other locations were considered, particularly locations in Reston since they seem so eager to open this facility in Herndon?**
- j. Why day labor in Herndon and not in Reston?**

The site is planned for Herndon because the informal site exists in Herndon and has been a matter of deliberation before the Town for years. Day labor is a well-established phenomenon around the country. Generally speaking, day laborers gather where they live and where work is available. The economic growth along the Dulles corridor and the commercial and residential housing boom of the 1990s drove the need for this type of casual labor to support construction, landscaping and other services.

Reston Interfaith is not driving the decision to establish a formal site; rather it responded to the Town of Herndon's invitation to help address this issue after the Herndon Town Council adopted the report of a Town-sponsored working group on day laborers in 2001. This group, the Community Relations Working Group, or CRWG, recommended that a formal site be established relatively close to the existing informal gathering place in Herndon, and it recommended five sites that met the criteria established and fell within Town limits. It was thought that both laborers and contractors would be more likely to transition to the new site smoothly if it were located nearby. The old Herndon lumber yard is the only one of those suggested five sites, or of any other sites, for that matter, that has been proffered for use as a temporary day labor assembly site at this time. As to alternative sites, such as the Reston Home Depot store, our research indicates that Home Depot has a national policy prohibiting pick-up sites on its properties.

Due to transportation and work location issues, moving a site too far away from the current site will not result in the elimination of the current informal gathering place at the 7-Eleven or prevent other informal gathering places from springing up within the Town.

Additionally, though Reston Interfaith was originally established in 1970 by Reston-based faith organizations, they serve a much broader community than just Reston, including a large area of northwest Fairfax County - Reston, Herndon, Chantilly, Centreville, and parts of other neighboring communities. For the convenience of those they serve, they try to locate service delivery sites to best meet the needs of their program participants and not add transportation burdens. In the case of the day labor program, the participants live in Herndon, or work for employers who serve the Herndon area. Currently, there is not a gathering of day laborers in Reston.

The labor site is not and would not be a faith-based facility. Reston Interfaith is called "interfaith" because it is sponsored by 18 different communities of faith—three Jewish congregations, two Catholic churches, 12 Protestant churches of various denominations, and one Muslim mosque, with members who live or work in Herndon and surrounding communities. The support of their sponsoring congregations does not require a religious component to any of our programs, and Reston Interfaith does not administer any of its programs based on any religious philosophy.

Questions 2a – b:

a. Reston Interfaith is a collection of churches in the area, some of them are actually in our town. Why aren't any of these churches volunteering their parking lots as possible day labor sites?

b. Why does Reston Interfaith not offer the property of any member churches as sites? This is a philanthropic undertaking, which should not be funded by the town.

As indicated above, while Reston Interfaith is supported, in part, by faith groups in the area, the agency does not own or control any of its sponsoring organizations' properties. The Community Relations Working Group did not suggest any Herndon-based church property, focusing instead on industrial and/or commercial properties rather than churches, which are usually located within residential neighborhoods.

If a church site were deemed appropriate and the congregation wanted to consider operating a day labor site, it would first need to go through any required internal review and use policies and then work through the Town of Herndon's zoning process,

Questions 3a – b:

a. What experience does Reston Interfaith have in immigration, employment, and labor issues?

b. Is this Reston Interfaith's first attempt to set up or operate a facility offering employment matching?

Reston Interfaith is a nonprofit, tax-exempt human service agency. They currently run employment matching programs at the homeless shelter they operate in Reston. They work with clients who reside in transitional housing units helping to match them with prospective employers. They also have experience in a program called the Construction Training and Opportunities Program (CTOP).

Reston Interfaith works with many foreign-born residents every day in each of their programs, offering English as a Second Language classes, U.S. Citizenship preparation courses, immigration counseling and referrals, and bilingual social work services for homeless and vulnerable families and individuals throughout northwestern Fairfax County.

Questions 4a – h

a. How will the staff operating the organized day labor site differentiate between legal residents and illegal immigrants?

b. Is Reston Interfaith prepared to enforce (or ensure compliance) by the users of the day laborers at the facility regarding tax and immigration laws?

c. Would there be some sort of monitoring system to keep track of illegal immigrants and reporting expired visas and deportment?

d. How will you address the issue of businesses using day labor site to pay appropriate payroll taxes, BPOL, etc.?

e. Reston Interfaith said in the March 21, 2003 issue of the Herndon Observer that 50% of the day laborers are here illegally. According to commonwealth law (Sec. 274A[8 USC 1324a]) employment of unauthorized aliens is unlawful specifically if a person or entity hires, recruits or refers for a fee an alien knowing they are unauthorized. What assurance can you give that the town or Reston Interfaith are not referring illegal immigrants for employment?

f. What will be done to ensure employers are following the law i.e. paying employees SSI & taxes)?

g. The proposal's opening paragraph uses the term "controlled". It is a federal law that day labor employers must verify a laborer's legal immigration documentation. How do the town council and/or Reston Interfaith plan to "control" this?

h. Since federal law required employment agencies to verify the legal status of their "clients", how do the operators of the proposed site justify their position as a de facto employment agency that they need not verify documentation?

Private organizations play no role in enforcement of federal immigration regulations. Thus, the site will not question laborers' immigration status as a condition for service. Information will be made available to make laborers and employers aware of the laws. Similarly, private organizations play no role in enforcement of federal taxation regulations. That said, however, private organizations are often very effective as providers of information and resources. Thus, Reston Interfaith will offer or facilitate immigration and legal services to assist participants in addressing these issues, and will collaborate with immigration and legal service providers to offer educational programming on Individual Tax Payer Identification Numbers (ITINs) to address employees' responsibility to pay taxes on income earned. The site will also make employers aware of their federal responsibilities as employers. Additionally, the site will not readmit employers who fail to pay or otherwise mistreat the laborers they hire.

The law referenced in the question bars the practice of referring or recruiting "illegal" immigrants for a *fee*. Reston Interfaith will not charge a fee, nor will it involve itself in determining the legal status of program participants. As stated above, this is a federal issue and an issue that is the responsibility of the employer and the employee to address.

Questions 5a – c:

a. What assurance do we have that by building it the number of day laborers won't double/ triple?

b. Will the facility be limited to Herndon/Reston residents? Or will this be drawing workers from across the area?

c. Does the town of Herndon forecast an increase or decrease in this "out of proportion" rush to our community by building a day labor center?

One of the many goals shared by most community members is that only one labor site exist in Herndon. Measures have been proposed that would help prevent the possibility of multiple informal sites springing up in addition to the formal site. One critical step in this prevention process is to admit all laborers to the formal site. Otherwise, those barred for lack of residence in the Town, for example, would likely return to the 7-Eleven or gather elsewhere within the Town to seek work, resulting in the development of multiple informal sites.

In terms of numbers of laborers: it's hard to predict. The numbers at 7-Eleven have stayed about level over the past year. At a formal site, Reston Interfaith expects better patronage by employers because they will be solicited and welcomed, which would lead to better hiring numbers. This could boost the draw of the site to other laborers, or it could simply result in the existing laborers' finding work more frequently. Reston Interfaith's application does not allow for more than 150 laborers on the site at any one time, so there is a ceiling on how big the population can grow.

Questions 6a – b:

a. Will there be a limit on the number of people allowed on the site?

b. Reston Interfaith claims enrollment will be limited to 150 people. What will happen to the inevitable overflow?

As mentioned above, no more than 150 workers will be allowed on site at any one time. Other sites use a clicker counter to keep track; Reston Interfaith would close the gates to laborers if the count ever reached 150. Reston Interfaith notes that they do not anticipate overflow beyond that number any time in the near future, since numbers at 7-Eleven rarely climb above 60.

7. What plans do you have for these people when there is no work?

The unfortunate reality is that there is not always work. Reston Interfaith has committed to address the other social service needs of the day laborers by offering English classes during the peak morning hours, as well as offering professional skills-building and training or certification programs to help workers improve their opportunity for gaining long-term or permanent employment. They would also have various service providers on site to provide referrals for healthcare, linkage with legal and immigration services, food, clothing, etc. Reston Interfaith would offer laborers opportunities to address their needs at the site even if they do not find work.

Questions 8 a – c:

a. Why can't contractors come up with a site, pay for it, and maintain it?

b. Why don't the people, benefiting the most from this day labor site, i.e. the contractor/developer put any funding to this project?

c. Why are the citizens of the town of Herndon funding this with a grant? The laborers and companies benefiting from them should pay.

In other models of labor sites across the country, the operators of the sites are typically nonprofit agencies or local governments. Local government is usually part of the funding equation whether they are actively involved in the management of the site or not. The Town of Herndon's Community Relations Working Group conducted quite a bit of research into this matter, resulting in their recommendation that a private nonprofit operate the site, funded by both public and private sources.

Both laborers and contractors have expressed a genuine interest in the success of the site and will contribute significantly to the development and maintenance of the site. Many laborers have already agreed to help build and erect the shelter and provide landscaping services on site on a volunteer basis, as well as to participate in other community service programs in the Town. One contractor has already agreed to donate a fundamental part of the electrical work required to prepare the site for operation. Reston Interfaith expects these types of in-kind donations to become a regular part of the sustenance of the site.

Reston Interfaith has secured funding from Fairfax County and from private foundations to support a portion of the salary and program costs for operating this site, and they will continue to seek funding from private sources should the temporary site prove successful. Originally, the Town of Herndon had planned to handle the site development, which is why funding for that purpose was included in the recommended CIP budget for FY04. After Town staff recommended that all aspects of the program should be managed by the private, nonprofit organization, the Town Council approved a grant to Reston Interfaith to help defray the estimated costs of development of a site that meets the conditions of the proposed Zoning Ordinance Text Amendment currently before the Planning Commission.

Reston Interfaith will not benefit financially in any way from operating this program. In fact, the funding the agency has secured for the program will cover only basic costs. Reston Interfaith is donating significant amounts of management and support staff time and resources to the project that will never be reimbursed in a good-faith effort to meet the needs of the Town of Herndon, the day laborers and community members at-large.

9. In many other parts of the country, laborers gather near Home Depots, commercial landscaping warehouses, paint stores, etc. Why isn't Reston Interfaith transporting laborers to sites that work elsewhere?

Again, Reston Interfaith's research and that of the Community Relations Working Group suggested that the approach Reston Interfaith is taking is most likely to succeed. Since this is a temporary site, it offers the opportunity to test its success as a pilot program before committing anyone to a permanent arrangement or to raising the significant additional resources that would be needed to provide transportation. All of these issues can be explored if the pilot program is successful. We would also suggest that those gathering locations noted in the question are the result of informal gathering similar to the current 7-Eleven site. Without additional details on the dynamics of those locations, it is impossible to speculate as to whether similar arrangements in our community would be successful.

10. Please explain to us how temporary trailers and portable toilets constitute a "formal" site!

Trailers and portable toilets are the usual environment on construction sites, and contractors and workers nationwide are accustomed to using these facilities on a daily basis. Also, the Herndon laborers currently gather in a parking lot and on public sidewalks where there is neither shelter nor sanitary facilities, not to mention regulation or services. Compared to that, the trailers, toilets, and an organized, staffed program are significantly more "formal."

11. Why can't the provision of social services to individuals be separated from the operation of a day labor site?

It could be. By combining them, however, Reston Interfaith offers a more logistically and programmatically efficient solution. The site will be a one-stop shop that streamlines service delivery and ensures that more people are connected with the help they need.

12. Considering all of the services to be provided at this site, isn't day labor facility an under-representation of what will occur?

In their application for a Conditional Use Permit before the Herndon Planning Commission, Reston Interfaith describes the program as an "assembly and services site" for day laborers, which is a more accurate description of the project.

13. Why do so many day laborers not speak English and/or take advantage of ESL classes throughout the county?

According to Reston Interfaith, many day laborers do speak English. Some are even U.S.-born Caucasian and Afro-American citizens. And for those for whom English is a second language, many speak very well or at least well enough to get by independently. According to Reston Interfaith, for those who don't, there are many reasons why not:

- ✓ It's difficult. Learning any foreign language is hard, and English is particularly difficult. There are a lot of irregular constructions in English, not to mention silent letters.
- ✓ Scheduling is tough. Many laborers hold down several jobs trying to make ends meet. There may not literally be enough hours in their week to include English classes. Or their work schedules change: one week, Monday and Wednesday evenings are clear for English classes, but the next two weeks they have to work. When they go back to class in the fourth week, they've fallen terribly behind.
- ✓ ESL classes, in general, need to be more sophisticated. Many classes combine students with vastly divergent aptitudes and learning styles. It's easy to fall behind if you're a student who has never studied a language before—including your own native language—or if you can't keep up with the pace and need more individual help, or if your learning style responds better to a different kind of teaching.

Reston Interfaith proposes to offer ESL classes at the labor site each morning for the laborers to attend as they wait for work, as well as refer workers to the programs being offered by our partners in the community. By doing so, they hope to combine a variety of teaching styles in an effort to help a range of learners become successful.

14. Will day laborers be available for jobs other than construction and yard work/landscaping?

Yes. There are many possibilities. In addition to the various construction trades (drywall, electrical, plumbing, painting, etc.) and landscaping, day laborers are also available to:

- ✓ Assist with household or office moves
- ✓ Direct traffic for a special event
- ✓ Lay cable
- ✓ Do home repair/home improvement
- ✓ Etc., etc.

15. Will it be possible to arrange in advance to hire someone, such as the day before? If so, could arrangements be made by phone (with the pick up in person, of course)?

Yes. Reston Interfaith's on-site coordinator can facilitate arrangements for you in advance via telephone, email, or in person.

16. Has there been a survey of the background and needs (health, education, immigration, social services) of the day laborers and their families? What use is being made of the survey or will be made? If there's been no survey, shouldn't there be one to see where we should go to help these people become productive residents?

Yes. Reston Interfaith conducts ongoing and confidential needs assessments of all clients with whom they work, including laborers. This information is used to help create and implement programs that will be most useful to the people Reston Interfaith serves.

17. If (name withheld) has been finding work at the 7-11 for 8 years, why has he not found permanent employment? And if he's interested in assimilating into the community why has he not learned to speak English?

See response to question 13. above.

18. Who will monitor these people during their waiting around? So there are no drugs or alcohol being used.

As stated in Reston Interfaith's application, sufficient staff will be present on site at all times during hiring hours. There will be a zero-tolerance policy on intoxication or use of drugs or alcohol on site.

19. How will "code of conduct" be enforced? Currently Dept. of Works picks up trash on Alabama twice a day. That is not enforcing litter laws.

People who fail to adhere to the Code of Conduct may be suspended or even banned from the site, depending upon the severity of the violation.

Questions 20a – b:

a. Given the disproportionately high number of police calls to Reston Interfaith operated residences, why was Interfaith chosen to operate a site?

b. How many properties does Reston Interfaith own in Herndon? How many police incidents have occurred at these properties?

The claim of disproportionately high numbers of police calls to Reston Interfaith's 14 homes in Herndon is irrelevant to the day labor project. The Herndon Police advise that the number of calls is not excessive and in some instances, represents citizens working in partnership with the police to report crime.

Reston Interfaith works closely with clients and with homeowners associations and/or their management companies to immediately address any concerns about housing maintenance or resident conduct that are brought to their attention.

As a housing choice voucher (or Section 8) landlord, Reston Interfaith properties are submitted to regular inspection. They have received numerous commendations from county inspectors for their well-maintained and managed homes. Reston Interfaith's housing acquisition program has been named a "best practice" human services program by Fairfax County. It was also chosen as one of 55 programs out of thousands considered throughout the metropolitan D.C. area to be included and highlighted at the launch of TouchDC.org – a web-based directory organized to promote charitable giving and acknowledge the contributions of nonprofit organizations.

21. Is there a process available to give constructive detailed input into the process- possibly by written comments or volunteering on a committee related to the process?

Yes. A community advisory board is planned for this very purpose. Reston Interfaith has also made a commitment to and attended every Town meeting and public discussion on this issue and has met with a range of Herndon stakeholders—individuals, businesses, clergy, and others—whose input has helped shape their application before the Town.

22. Will the program be set up to transition workers from day laborers to full-time employment (one benefit is that the laborers become taxpayers)?

Whenever possible, it Reston Interfaith's goal as well as that of the laborers to help them secure regular employment. Even if they do not, however, it does NOT preclude them from paying taxes. Since paying taxes is the law, laborers are advised that they should file regularly using their social security number or by obtaining a federal Individual Taxpayer Identification Number (ITIN).

23. Why not call it an employment center rather than a day labor cite? And why not make it an employment center?

It's a question of semantics. The terms are used interchangeably. However, the point is well-taken. The formal sites in Shirlington, VA, and Silver Spring, MD both call themselves "employment centers."

24. Where are the town residents that are day laborers? From hearing the audience, there are not many here for this meeting.

Many laborers, as mentioned above, have work schedules that allow very little flexibility. Three day laborers spoke during the public hearing segment of a recent Herndon Planning Commission meeting; all three are residents of the Town of Herndon.

25. Since the time that flyers outlining a code of conduct were distributed at the 7-11 site, has the behavior improved and have complaints decreased?

Reston Interfaith has observed an improvement in many of the areas of concern that had been raised during the Community Relations Working Group discussions. Some issues will never be fully addressed until a site is in operation that can provide workers with bathroom facilities, shelter, trash receptacles, etc. Importantly, day laborers at the 7-Eleven are enthusiastic about the opportunity of moving to a nearby site that provides such standard workplace amenities and access to services and educational activities that are not currently available to them. A small group of leaders has emerged among the laborers, and these people appear willing to assume a strong governance role with their fellow workers to address their needs, as well as to help Reston Interfaith respond to questions or concerns going forward.

Police Chief Toussaint Summers addressed this question directly at the meeting on July 15. His exact words were: "My opinion is that it has improved the situation and that we utilize the Code of Conduct to remind the day laborers as to what they have agreed to. I would say that almost 100% of the time when we remind them that they are supposed to leave at 11:00, they basically leave. Now do some drift back later in the day? Yes, and then we remind them again and they leave again, but they do comply with it. They also restrict themselves to one part of the parking lot where prior to that they used to be all

over the parking lot. So I would say that the Code of Conduct has improved [the situation].”

ENSURING ONLY ONE SITE IS USED

Questions 26a – l:

- a. What is to prevent any type of congregating in and around the vicinity/neighborhood of this day labor site?**
- b. At the proposed day labor site, what’s to prevent the workers from spilling over to the adjacent 7-11? If that happens, we then will have a much bigger problem. The laborers looking for work must be kept confined to the day labor site! How do you propose doing that?**
- c. How do you propose stopping the day laborers from migrating into the adjoining residential neighborhoods and loitering?**
- d. How do you get day laborers and employers to use a center?**
- e. If Herndon Town Council goes ahead and approves the plan to move the day laborer site to the proposed new location, what is going to motivate these men to go there? Who will be responsible for moving them? And, in case no one has noticed they now take up space at the McDonald’s parking lot every day as well. Will there be a “no gathering ordinance” brought up?**
- f. If a “labor site” is established, will the town eliminate other pick up sites if they pop up around town?**
- g. How will those who do not find work on any given day be dispersed, so that they don’t move from the day labor site to the post office, 7-11, etc.?**
- h. If Herndon opens a “formal” day labor site, who will enforce the closing of the existing site or prevention of others opening?**
- i. How will an informal site be prevented at 7-11 after a formal site is instituted if it can’t be prevented now?**
- j. Day labor site should not be located near residential neighborhoods if a problem already has existed at Alabama/ Elden 7-11 site. What are we doing, spreading the problem around?**
- k. How will we be able to present multiple “sites”, formal or informal from forming? This issue is important to the quality of life issues in Herndon.**
- l. Why can’t the town enforce the solicitation laws now?**

The Glendale, California, anti-solicitation ordinance that prohibits soliciting day workers from vehicles and prohibits day workers from soliciting work from persons in vehicles was mentioned at the July 15 meeting. The Town intends to pursue such an ordinance if an alternative formal site is established. This anti-solicitation ordinance only works legally if there is an existing, usable, and formal site, which may be used by the day workers. The purpose of the ordinance is to prevent alternate, informal sites from growing up. The legislation would not work in the absence of the existing preferred site.

Additionally, only those laborers who remain on the formal site will be considered for jobs. They will be given a lottery number and must be present when a job becomes

available for them. Thus, those people who genuinely want to work will remain on site. Those who do not are not appropriate participants for the labor site program.

Based on the successful models in other communities around the country, Reston Interfaith believes that this approach will result in many positive outcomes for our community.

TOWN OF HERNDON – COMMUNITY RELATED ISSUES

Questions 27a – h:

- a. Why is the town so anxious to do this? How is it going to benefit the town?**
- b. Why should the Herndon taxpayers pay for a day labor site and why should the town contribute resources to this issue?**
- c. Why should our tax money pay for the day labor site, especially when most of the workers are illegal?**
- d. Why would the politicians want a day labor site in Herndon, as it would reduce our property values?**
- e. What will happen if a day labor site, regulated, is not built?**
- f. Why is the town of Herndon involved in arranging the details of employment for private citizens?**
- g. How does the organized day labor site benefit the citizens of Herndon that will not be using the site?**
- h. Why should the town get in the employment/deployment field? Why should the taxpayer pick up the tab so the developers can get cheap labor?**

Current proposals are the result of more than five years of work to address community concerns regarding the impact of the current informal day laborer site at 7-11. Residents – most with complaints about the current site – participated in the Community Relations Working Group (CRWG) that achieved a consensus that moving the site somewhere that would not be located in a highly visible and highly trafficked area (both vehicular and pedestrian) would be the best solution.

Due to legal constraints – federal immigration policies, civil rights issues, no Town or Virginia loitering laws etc. – it became clear that there were only two options:

- 1) leave the informal site where it is
- 2) try to find a workable alternative site that is acceptable to the community

These are the basic reasons why the Town is working to find a solution, whether some workers may be illegal immigrants or not.

The major benefits to residents of a “formal” site would be to: 1) alleviate concerns about safety when a large group of men congregate in a highly public and trafficked area, 2) remove what some residents characterize as an “eye sore” that they perceive potentially

impacts the value of commercial and residential properties, and 3) separate day laborers from others to better identify perceived problems with criminal activity in the area such as drunkenness in public (See Safety/Immigration Section below for more information on crime in the area.)

The Town has never proposed to spend a significant amount of taxpayer dollars on either a temporary or permanent day labor site. The grant to Reston Interfaith is \$35,868, which is intended for fencing and building supplies, if needed. This represents less than 1 percent of the Town's operating budget.

An inaccurate newspaper headline and ad have led some to believe the \$950,000 allocated in the FY 2004 Capital Improvement Program to purchase land for a new Neighborhood Resource Center (NRC) is only for a day labor site. This is inaccurate. It was envisioned the day labor pickup area would encompass only 600 square feet at the back of a new NRC facility. That allocation was predicated on Fairfax County reimbursement of half or \$475,000.

It now appears that the proposal for a new NRC on Alabama Drive will not become a reality because Fairfax County would prefer not to construct a new facility but continue the current cooperative lease at the Dulles Park Shopping Center.

While we cannot say with complete certainty that a day labor site would not negatively impact property values, it is important to note that residential development in Herndon is robust, even with the current informal day labor pick up site that has existed for more than eight years. Several upscale residential developments have been submitted, approved and/or developed within the last three years. Additionally, real property assessments continue to rise similar to the rest of Fairfax County.

The Town has never proposed to be in the employment business. It has always been envisioned that non-profit and private groups would operate the day labor site.

28. What resources is the town going to have to cut to pay for the land and day labor site?

As noted in the response to the previous question, the Town never intended to spend significant resources on a day labor site. The grant to Reston Interfaith represents one of many options the Town and a non-profit can pursue to find public and private grants to operate a permanent day labor site. For these reasons, no resources (e.g. services) will have to be cut.

Questions 29a – b:

Why does the town feel it necessary to provide social services, which are the responsibility of the county and/or private organizations?

There are existing programs in Fairfax County, which are supported by our tax dollars. Why does the town of Herndon have to duplicate/recreate these programs again at the expense of the Herndon taxpayer?

The response assumes the questions pertain to the Neighborhood Resource Center, because there are no existing day labor centers/services provided by Fairfax County to duplicate.

Town Council recognized in 1997 that there was a growing need to provide affordable community-based health, educational and human services to Herndon residents. Many of the services available at the NRC are not available through the county at its nearest human services facility in Reston including the following:

- Computer Learning Center
- GED Learning Lab
- Homework Assistance for Children
- Reston Interfaith Afterschool Program
- Student Registration (nearest sites are in Falls Church and Route 1)
- ESL Classes
- Pro Bono Legal Services
- Hispanic Committee of Virginia
- Grants Alternative High School

There are many other programs and activities available at the NRC. Go to the Town's website at www.town.herndon.va.us to see more. Numerous community groups hold meetings at the NRC.

In addition to health, educational and human services, another vital component of the NRC is neighborhood enhancement. Both the Town's Neighborhood Improvement Specialist and Neighborhood Rehabilitation Specialist (a 100% grant funded position) are located at the NRC to provide a variety of services including housing counseling, home improvement counseling, access to granted funded home improvement loans, community outreach on Town policies such as over occupancy, trash regulations, etc. Town staff works closely with residents and community associations to promote property maintenance and identify zoning violations. These services are not provided by Fairfax County.

30. Will the degree of violence escalate without dignifying options?

It is unclear what this question means. If it pertains to day laborers, there are no significant issues regarding violence and their gathering for work at the 7-11. Additionally, there has been no significant increase in serious crime in the Alabama Drive/Elden Street area over an eight-month period. (See Safety/Immigration Section below for more information.)

31. Most of the people are "laborers", honest people looking for jobs to help themselves and their family. In turn, they end up helping the community by spending their money. Shouldn't they have opportunities?

Yes.

32. I have future neighbors located at the corner of Van Buren and Spring St. Their house has not been constructed, so I do not believe that they have received any notifications regarding this issue. They currently reside in Vienna until their home is constructed. Has any effort been made to contact them for their input? They will be directly impacted. I do not want this day labor site at the old lumberyard.

If they reside in Vienna and do not have access to local newspapers they answer is most likely no. They can contact the Town and we will be happy to send this and other information.

33. If this was a group of Caucasian men loitering all day and all evening, would the town be doing what it is doing?

One of the continuing complaints is a sense of intimidation when a large group of men gather in a public place. This is often a concern among women no matter who the group of men is or what they look like.

34. Who prepared the handouts, and did the town council read and understand the contents?

The Town's Public Information Officer and Director of Neighborhood Resources prepared the handout "Day Labor in Herndon." The Town Council is most diligent in reading materials prepared by staff.

35. When and what form did the citizen input regarding the closet/lumber yard site take?

Initial citizen input was provided during a series of meetings (CRWG) held from July 2001 to October 2001.

Questions 36a. – b:

a. How were the members of the panel of "experts" selected?

b. Why wasn't more diversity of opinion included in the panel?

c. Why were the only legal experts on the panel chosen from two left-of-center organizations?

Several of the experts volunteered to be on the panel based on their expertise. The experts were not chosen based on any real or perceived political affiliation. They were chosen to address the variety of key issues involved with day labor such as immigration, labor and civil rights.

37. Who is paying for the mediation service?

The Town of Herndon.

38. What process was used to award Reston Interfaith the funds?

Reston Interfaith stepped forward shortly after the CRWG concluded in 2001 when it was recommended by the CRWG that a non-profit operate a day labor site – not the Town. At that time Reston Interfaith explored options, and was successful, in obtaining grant funding from Fairfax County to hire a coordinator for the current 7-11 site in late 2002.

Because of this involvement and their commitment to helping the Town find a solution, Reston Interfaith was slated to receive minimal funding from the Town for building supplies at the proposed interim site (old Closet/Lumber Yard) that became a grant during the FY 2004 budget process earlier this year.

39. Why won't the town pursue the Reston Interfaith proposal- they are going to bail out soon? What is the issue?

The Town has been working with Reston Interfaith on its proposal.

40. As a community, how can we avoid being labeled an illegal just by how we look?

It is unfair for anyone to assume someone is an illegal resident simply by how they look.

(THIS PORTION OF THE ANSWER PROVIDED BY DAVID DRACHSLER DURING THE PANEL Q&A) I think this leads into the whole question of discrimination again. If I am not mistaken, in 1986 when the last major amendment to the Immigration Nationality Act was passed the Justice Department set up a division whose sole function was to monitor enforcement of the new Immigration Law and to make sure that it was not being enforced on the basis of discriminating against certain minority groups but that it was enforced only against those who had violated the Immigration rules regardless of what group they came from.

41. Are civil liberties applied only to legal residents and citizens?

(ANSWER PROVIDED BY DAVID DRACHSLER DURING THE PANEL Q&A) The short answer to that is No. The Fourteenth Amendment speaks in terms of no state shall deprive any person of life, liberty and property without due process of law, not citizens. The Supreme Court has held that the Federal Government does have certain authority with respect to immigrants coming in to the country, what people do once they are here and whether they can be required to leave the country for those kinds of things, and I will defer to my colleague from Homeland Security to talk about that.

42. Are the people who refuse to have this site racist? Is this a discrimination issue?

(ANSWER PROVIDED BY DAVID DRACHSLER DURING THE PANEL Q&A) I am not prepared to say that any particular person who is opposed to this site is doing so for a racist reason. I am not sure that I am qualified to say that, but again, the Supreme Court has said that one of the problems with anti-loitering ordinances is, or can be, and in the Chicago case they found that it was, gives too much discretion to the police who enforce the ordinance so that it can result in a situation of discrimination against certain groups if it is only enforced against certain groups and not others.

I can think of a situation in my own neighborhood in Alexandria, people stand around in the street, it's a quiet neighborhood, and they talk. Are they loitering? It seems somewhat inconceivable that the police would ever try to do anything to them if there were an anti-loitering ordinance in Alexandria but down on Queen Street, for example, which has been known to be a drug sale area they might want to roust people for simply standing around.

43. Should Herndon not approve the proposed interim day labor site, what do those who oppose the interim site propose as an alternative course of action to address the problem of the current “informal” day labor site on Alabama Dr.?

Some opponents have proposed church sites. However all churches but one are located in residential neighborhoods, something opponents and supporters alike do not wish to see. Some opponents also ask that the town study this issue further. After several years of study, available land continues to be a significant obstacle.

44. Our taxes are high enough. Who is going to pay for the site and its maintenance, security, and enforcement of rules?

See responses 27. and 28. above

45. Why does the town want to subsidize low wage enthusiasts?

See response 27. above.

46. Does the town care where all of these illegal people live and what has happened to our neighborhoods?

See response 29. above regarding neighborhood enhancement.

47. Is the day labor site designed to serve residents of Herndon only, or is it intended to service a larger area? If so, what is the larger area it will serve?

It is not anticipated the day labor site will attract or serve a larger group of workers (most Herndon residents) than currently use the 7-11 site.

48. Why expend all these funds and time to deal only with the day labor issue, instead of all multicultural immigration issues in Herndon?

See response 27. above.

49. Why hasn't the question of, “Do we want to encourage or discourage day labor” been addressed? It seems that that question need to be addressed and answered before we can take steps to decide whether we establish a formal site, facilitating the practice.

The question has been raised and addressed on numerous occasions.

The Town has not done anything to encourage day labor yet there has been an informal site at the 7-11 for more than eight years.

50. Why do we need a day laborer site? Why can't the workers go through the VA Employment Commission?

(ANSWER PROVIDED BY TIM FREILICH DURING THE PANEL Q&A) The Virginia Department of Labor and Industry has one office that covers Northern Virginia, all of Northern Virginia. It is located in Manassas. They have a small hard working staff but frankly they don't have the resources to do the job that they are suppose to be doing, despite their hard work. I think that is a question of lack of resources and the political will to fund the enforcement work that perhaps people are addressing.

There was one suggestion, somebody looking over my shoulder at one of the questions, said well maybe the Neighborhood Resource Center might be an option to invite the VEC, Virginia Employment Commission, or the Department of Labor and Industry to have a local enforcement office or program or outreach here in Herndon, which sounds like a sensible suggestion.

51. We, the day laborers, have been waiting for about 30 months for a site. Until when will we have to wait?

An important recommendation in the CRWG report was to ensure the site was acceptable to the community. We are now going through another phase of the public process to determine acceptance.

52. How can you justify creating a site where fifty percent or more of the people break Federal and State laws?

The legal import of this question is: May the Town involve itself in establishing a physical day workers assembly site if it is suspected that some of the workers are not permitted workers? Federal case law would allow, and some would argue, require that the Town would make its public facilities open to all persons within the Town.

There is Federal law and State law that prohibits hiring of workers who are not authorized to work in the United States. The Town would facilitate enforcement of such laws by the appropriate Federal and State agencies.

53. What is the Town's role in the operation of the site?

The Town enjoys the municipal power to provide a public marketplace, community facility, and public gathering place. The Town enjoys power to describe the uses for land under zoning authority and to grant or not zoning approval for projects.

54. Since Fairfax County has an anti-loitering ordinance and the Town is in Fairfax County why can't the Fairfax County ordinance be used in Herndon to prohibit considerable day laborer activity that does not occur on private property?

Fairfax County laws generally apply in the Town. However, because the Town of Herndon also has authority to adopt a loitering law, the Fairfax County loitering law legally does not apply in the Town. The Town Council has not adopted a loitering law and therefore there is no loitering law in the Town.

Many would argue that day workers are not "loitering," as defined by Fairfax County anti-loitering ordinance or any other anti-loitering ordinance.

55. The Town has an "unlawful assembly" code, why can't we enforce it?

The assumption for the question is that the workers for the day worker assembly site are unlawfully assembling. The Town does not believe that day worker assembly activity constitutes "unlawful assembly."

56. Does the Town have legal authority to fund an employment service? Is this in the Town Code?

The Town of Herndon enjoys the power to promote and provide a public marketplace, community center, or other community gathering facility. The Town would not be funding an employment service. Any employment service would be provided by a private entity.

57. How can the Town zoning ordinances be changed to include “day laborer” if that term is not in the Virginia Code and has not been defined?

Every term does not have to be defined by law. If the term is not defined, then the ordinary and customary dictionary meaning would apply for any particular term. At the Planning Commissions’ direction, the Town Attorney included a definition of “temporary assembly site for day workers.” The Planning Commission will be considering this definition at its August meeting.

58. Why aren’t existing ordinances adequate to address the issues at the 7-Eleven site on Alabama Drive?

The Town has ordinances on prohibiting blocking of sidewalks, prohibiting urination in public, and prohibiting littering. The Town enforces those ordinances, and other such ordinances, to control, but not eliminate, the gathering of day workers at the 7-Eleven site on Alabama.

59. What can be done to write and pass ordinances to help the 7-Eleven stop activity on their property?

7-Eleven enjoys the power to control its own property. The Town enjoys the power to prohibit sidewalk obstructions, littering, urination in public, and other possible criminal activities pertaining to the informal day worker assembly site at the 7-Eleven. The Town does not enjoy the power to stop people from lawfully assembling on public property for any lawful purpose, such as seeking work.

60. Can the Town exclude non-Herndon residents from the day worker assembly site? No. The Town has differential fees for golf and community center activities for non-Herndon residents; and the Town may look into such a differential in this case. However, the Town should not prevent non-Herndon residents from using a public facility in the Town.

61. Is anyone concerned about the long-term consequences the decision will have on our town? Do we want to stay as an American or a Hispanic community? I believe this is where we are headed.

Of course, the long-term consequences of the decisions on day labor are a concern. America has always been a nation of immigrants; the question implies we have a choice and that the two are mutually exclusive. Both premises are false.

62. Do the citizens against the organized site think that the immigrants will go away if there is no site?

This question can only be answered by those who are opposed to the site.

63. Why are we only addressing the training needs of the Hispanic minority? I too am a minority and have always had to seek training in Fairfax County, FCPS or NOVA.

If the question pertains to a workable day labor pick up site, this is not the case. See response 27. above for clarification of the reasons the Town is pursuing an alternative site to the current informal site at 7-11. Reston Interfaith has proposed to offer additional services but those would be available for anyone, similar to the services at the NRC.

LOCATION OF THE SITE

64. Where is the closest similar facility to Herndon?

We know of informal sites at Annandale, Manassas, Colmore, Rte.1 area, Shirlington /South Arlington. Arlington County has just decided to convert the site in South Arlington to an official site by moving it to a county park (utilizing the parking lot).

Questions 65.a – d:

a. Why not have location out of Herndon?

A day labor site could be located outside of Herndon, but this would require the agreement and participation of the county in which it would be located. It probably would not serve the day labor population of the Town as well as an in-town site, which could make it difficult to close down any informal site inside the Town.

An extended period of time would most likely be required to locate the site outside of Herndon. To date, Fairfax County has been developing information about the informal sites in Herndon and elsewhere in the County, but the County has expressed no desire to become involved in the Town's efforts to relocate the existing site outside of the Town.

Either county could take the position that this is a Town issue and the Town should resolve it within the Town limits (Fairfax County, however, might assist the Town in various ways, but most likely it would not want to have the Town's day labor site relocated outside of the Town).

For a temporary site, this relocation effort may involve more time and resources to get one established then it would be worth. However, a location outside of Herndon could be considered for a permanent site.

b. Why day labor in Herndon and not in Reston?

The site could be in Reston. However, the existing informal site is located in the Town, and the effort to establish an official temporary site is being undertaken by the Town. It would be difficult for the Town to locate the site outside of the Town limits (see response above).

c. and d. Why is this site not located in Fairfax County outside of the town of Herndon?

Why does relocation of the day labor site have to be within the town limits? Why not within the county? A statement was made that a Fairfax County location could be problematic. Please explain.

See responses to questions a and b, above.

66. Is this a done deal? I feel it is and I don't understand why other sites (possibly church sites) have not been considered.

The establishment of an official temporary day labor site is not a done deal. There are two major decisions that the Town must make in order to establish an official day labor site: (1) adopt a Zoning Ordinance amendment to define and allow such a use, and (2) approve a Conditional Use Permit for this use. The Herndon Lumber site is the only site for which an application for a Conditional Use Permit has been submitted. No application has been submitted for a church site or for any other site. The Conditional Use Permit application and the Zoning Ordinance amendment are now before the Planning Commission for a recommendation, and they will go on to the Town Council after the Commission makes its recommendations. The matter is far from being a done deal.

67. What are the differences between an organized and an unorganized day laborers site?

An unorganized (unofficial) site starts spontaneously and operates without authorization or control by the local government, except on occasions when the Police may be called in. Nobody is in charge of organizing or controlling the activities on the site. By contrast, an organized (official) site is authorized by the local government (most likely through its zoning powers), is located at an acceptable location, operates under the control of a site coordinator, and operates according to policies and regulations approved by the local government. The current site at the 7-11 on the corner of Elden Street and Alabama Drive used to be totally unorganized, but it now functions with a site coordinator provided by Reston Interfaith.

Questions 68a – b:

Why have other sites not been considered?

What other sites were considered?

To date, about 24 sites have been considered, either briefly or in considerable detail.

A map showing the locations of these sites is available in the Department of Community Development.

69. Are there more day labor sites purposed in the Herndon area?

As far as Town staff knows, there are no other day labor sites proposed.

70. What criteria was used in selection of 900 Alabama as the permanent day labor resource center?

The site at 900-902-904 Alabama Drive has NOT been selected as the permanent day labor site. It has been proposed as the permanent location of the Neighborhood Resource Center. This would involve purchase of the properties, demolition of the existing

buildings, and construction of a small office building to house the Neighborhood Resource Center and possibly other office uses. This project would be undertaken only with the financial and administrative participation of Fairfax County.

If this project moves forward as proposed, it may be possible to locate the day labor site on this site, to be operated out of the relocated Neighborhood Resource Center. There has been no decision on this, however.

The criteria used to select this site for a possible Neighborhood Resource Center include the following: (1) the deteriorated condition of the existing properties and the desire to replace the existing building with a small but high quality office building; (2) proximity to the existing Neighborhood Resource Center, which is considered generally well located; (3) size of the site matches space requirements; (4) reasonable cost of site.

71. Why not build this site on Route 606 near the industrial parks instead of a residential neighborhood?

See response to 65a. above.

72. Is the proposed temporary site the best available location for the vast majority of job seekers?

The proposed temporary site was selected as the best available site by a committee of day workers. This site may not be the best available location for the vast majority of job seekers, however. The existing site or a site located very near the existing site would appear to be the best site for the vast majority of job seekers.

73. Why is the site located near a residential area and a school? As far as Arlington's day labor, my understanding is that it is in an industrial site. Why is this not being considered? Or move it to the police station.

The proposed site at the old Herndon Lumber property is industrial, and it is quite far from any school. The residents of the closest residential area appear to be concerned that the day laborers will create problems as they pass through the neighborhood on their way to and from the proposed site.

Arlington's selected day labor site will make use of a park and is located close to offices and residential neighborhoods.

The Planning Commission has directed that the Police Station be re-evaluated as a potential site.

74. During the site selection phase, what consideration was given to the foot traffic through the neighborhoods with no day laborer residents? I am a resident in the historic district and am very concerned with the significant foot traffic and noise by my house in the early morning. This will most definitely have a negative impact on my property value. I do not want this site located at the old closet/ Herndon lumberyard.

Substantial consideration has been given to the question of foot traffic through this neighborhood. There is no doubt that there will be day labor foot traffic and some bicycle traffic on the streets and sidewalks in this neighborhood. It is not considered likely to be noisy, however. The Town and the organization running the site will make every effort to minimize this foot traffic by encouraging day laborers to use other routes. This use is not expected to remain on the site for longer than five years.

75. Given the many concerns that have been voiced about the current “gathering” location for day laborers in Herndon, what alternative to the current proposal for a temporary location at Grove and Van Buren is possible that may address the current concerns people have about the current “gathering” location?

The concerns about the current location appear to be addressed to a large degree by the establishment of an adequate official site. The proposed site at the former Herndon Lumber property is one of many sites that have been considered, and it may be the best site, all things considered.

76. Why is the town bullying Stanley Martin? It certainly is unspoken-the fact that Stanley Martin will not receive the proper zoning in order for them to build their development.

The Town staff has no knowledge of bullying, nor is there any known arrangement that would have Stanley Martin Communities, Inc., receive zoning for its development in exchange for agreeing to locate the day labor site on its property.

77. What is being planned/discussed about any possible future permanent day labor sites should the intended one prove successful?

Because the day labor site at the Herndon Lumber property is temporary, it will be necessary to find another site and make arrangements to move the day labor center again. To date, there has been no proposal for a permanent site for the day labor assembly center except at the possible relocated Neighborhood Resource Center. A decision on a permanent site is yet to be made. Also, the manner of making this decision, with adequate participation by all interested persons, has not yet been determined.

78. At the conclusion of 2 years (or however long the temporary day labor site will be at its current location), what will happen to:

- **Disband the laborers from that location?**
- **To restore that location to it’s previous status?**
- **The day laborers-where will they go?**
- **To the site development-wise?**

When the temporary day labor site is terminated, another site most likely will be needed. It is hoped that the Town can determine a location of such a site during the period of operation of the temporary site. If a new site is found, there will be a well planned program to move the site, utilizing all possible and appropriate means.

If the temporary site closes without another official site having been identified, then the Town will use whatever means it has available to prevent the continuation of the day labor activity at the current site. This will probably result in the re-establishment of one

or more “informal” day labor sites, such as the one currently located at the 7-11 store at Elden and Alabama.

If the questioner is thinking of the former Herndon Lumber site as the location of the temporary day labor site, then it is anticipated that this property will be developed for medium density residential uses by its current owner, Stanley Martin Communities, Inc.

79. When does the town foresee the day laborers relocating from the 7-11? Time frame please. It’s been going on for years.

This is difficult to project, because the decision-making process does not have a specific timeframe. At such time that a decision is made on a specific site (granted zoning approval), the site will have to be prepared. This preparation could require another several months

80. What constitutes a “site”? Can I still go out into the town and form a “casual site”?

Once the zoning ordinance is amended to define a day labor assembly site and an official site is established, the Town will make every effort to prevent the establishment of any casual (unofficial) sites. The zoning ordinance applies to private property, and other regulations apply to public property. However, these actions must be handled without depriving anybody of his/her constitutional rights. There is a much better prospect of success in preventing and eliminating casual sites if there is an official one in existence.

81. Who approached Stanley Martin for use of their property for a day labor site?

The previous owner, Boston Properties, was approached by the Community Development Director. The current owner, Stanley Martin Companies, Inc., was approached by the Town Manager and the Director of Neighborhood Resources.

82. If this day labor site does not work, how is the town going to enforce businesses, chamber of commerce and churches to not allow loitering at their site?

This question reveals how important it is to find a site that will work. If the site does not work, it will be difficult to prevent or eliminate casual sites in the Town.

NRC (Neighborhood Resource Center)

83. What will the zoning be for the future NRC? Will it permit use for day laborers?

If the NRC does move and it were to include a day labor site, then yes, it would have to have a conditional use permit that allows this activity.

84. Does a day labor facility need to be in the same location as the NRC in the future?

No it does not. This was one simply one proposal if the Town was to establish a new facility.

85. Why can't the NRC stay where it is, in the shopping center on Elden St.? Why does it have to be moved to the residential part of Alabama Dr.?

It doesn't have to be moved. It was envisioned that a new building on Alabama Drive would revitalize and enhance the area which, even though it is adjacent to a residential area, is primarily a commercial area.

86. Is the NRC involved with the overcrowding of neighborhoods?

Yes. See response 29 above.

87. Since Fairfax County is tasked with social services (not TOH), when and how was the county contacted regarding day labor? What was the county's response?

Proposals and discussions with Fairfax County are on-going.

88. Is there any county or federal funding available for the site or a future NRC?

The Town is exploring these options.

89. Among the potential services of NRC, would the health care be free of charge or tax-payer-paid in some form?

The NRC currently offers medical programs such as health screenings and mammograms. There are nominal fees for these services. In addition, a non-profit group (inspired by a Herndon resident) has formed the Herndon Free Clinic. Families can sign up for this program at the NRC.

TRANSPORTATION ISSUES

90. A day labor site must have good public transportation. Has the town and/or county considered using a metro/connector bus/park & ride location for a day labor site? This would take it out of the neighborhoods and into a public open area.

See response to question 65.a above.

91. It took years to get drive thru for Burger King because of traffic issues, but yet a day labor site will not produce the same or worse congestion in an area that borders residential (Alabama Drive)?

The traffic projections for the day labor site are not as significant as for the Burger King drive-through. The currently proposed site at the Herndon Lumber property has been examined for traffic concerns, and the staff has recommended that left-turns be prohibited leaving the site. With this restriction, a day labor site should pose no significant traffic problems at the former Herndon Lumber site.

TOWN ATTORNEY/LEGAL ISSUES

92. What are the legal implications to the Town in the event that illegal activity is discovered and prosecuted at the site?

The Town Council might through zoning or through a contract require that any person operating a day worker assembly site assure that it is operated within the confines of the

law. The Town would not share any liability by virtue of any collateral illegal activity that might occur at a day worker assembly site in which the Town of Herndon was involved as a sponsoring municipality.

93. Will the Town be liable for the illegal activity that takes place at the site or “accidents” that happen to day workers or contractors as a direct result of their involvement with the day worker site?

No.

94. A house for sale on Wood St. lost a contract because of the “proposed” day labor site. Is the town prepared for the lawsuits that will come from the impact to the real estate in Herndon from a day labor site?

The Town does not recognize such a cause of action. If such a legal action were filed, the town would be ready to defend it.

95. Will the townspeople be able to vote on the 900 block of Alabama site?

In my opinion, the town has already decided on the day laborer question. If they have not, why could it not be put to a town vote?

(ANSWER PROVIDED BY RICHARD KAUFMAN DURING PANEL Q&A) There are some types of bond issues that can be the subject of a referendum and that is always the case in counties. It is very infrequently the case in cities and towns which are municipal corporations; however, cities and towns may have a bond referendum on certain revenue producing projects and I do not know whether this is a revenue producing project, I doubt if it is. So the answer is you cannot have a referendum on this because the General Assembly has disallowed an advisory referendum

SAFETY/IMMIGRATION LAW

Questions 96a – b:

Can town authorities stop people at random and demand that they identify their legal status?

My main concern is safety around the area of the day labor site.

What has been the number of documented crimes or civil disorders involving the police that have occurred since or because of the 7-11 congregation?

(ANSWER PROVIDED BY DAVID DRASCHLER DURING PANEL Q&A)

The short answer to that question is No. I know that’s the answer to the question because someone wrote the answer “No” on the piece of paper they gave me. Actually there was a Supreme Court case a number of years ago involving an African American man in the Los Angeles area who had dreadlocks, I am not sure exactly what kind of clothes he wore, and he liked to walk at night through various neighborhoods, including some wealthier neighborhoods, and people did not like that in some neighborhoods. “

New Additional Police Response:

However, Herndon Police officers do conduct “Field Interviews.” Department policy defines when field interviews are warranted. Field interviews are initiated when an officer reasonably believes an inquiry into a situation meets the threshold outlined by policy. Information obtained during a field interview is entirely dependent upon the voluntary cooperation of the citizen involved. Field interviews are based on the need to identify victims, witnesses, or suspects; crime prevention or community involvement; intelligence gathering; and any circumstances which would reasonably arouse the suspicion of an officer and where the potential for gathering crime analysis information exists.

Question from 96a.—b. above. My big main concern is safety around the area of the day labor site. What has been the number of documented crimes or civil disorders involving the police that have occurred since, or because of the 7-11 congregation?

(THIS PORTION OF ANSWER PROVIDED BY CHIEF SUMMERS DURING PANEL Q&A) I would say that, and I am probably stepping out on a limb, but I would say that there are very few if any calls, crime related calls committed by a day laborer against someone who is not a day laborer. So in other words day laborers may commit crimes amongst themselves and we do occasionally get calls, but I was sitting here trying to think and I can’t really think and I am sure someone in the audience will probably say, “Oh, well this happened!”

I can’t think of a serious crime that a day laborer has committed to someone outside of the day laborer group. Does that make it right? No, there shouldn’t be any crime committed against anyone there. But unfortunately I would suspect there is a lot of crime going on among the group that they don’t tell the police about, either because of the language barrier or because of their fear of the police.

I just picked a random 9 month period of calls for service and was very interested to find out that during that 9 month period, 80 percent of the calls for service were generated by the police, 20% by the community. So that could say a lot. Either the community is not seeing much crime, or either the community for some reason is not calling us, but it does tell me that the police are there. If there are crimes going on in the area, the police cannot address the crime if you do not tell the police. So either there is not crime going on in the area and it is a perceived thing, or the community is not calling. And I encourage you if you are not calling to please call because we can’t address issues that we don’t know about. But the facts speak for themselves – 80% of the calls that we respond to there are self initiated by the police; 20% are called in by the citizen.

Questions 97a – b:

My big worry is the fear factor. How can we get to know each other? The unknown is always scary.

How will the town respond to my fear? I live next door to this proposed site- I will be personally affected. Are any of you who make the decisions- will *you* be personally affected?

(ANSWER PROVIDED BY CHIEF SUMMERS DURING PANEL Q&A) The fear factor is a big issue. I really don't know what to say in that regard and I am not belittling the fear factor because the fear factor is a real thing. If you are afraid to go out of your home, that is a big concern. There are all types of fears. There are fears of height. I just carried a friend to a doctor to talk about a surgical procedure and just the doctor talking about the surgical procedure my friend fainted and that is a real fear to that friend. And I can only suggest to you to face your fear as best as you can. Now when I say face your fear I don't mean walking amongst a group of people that you don't know and saying "OK, I am here to face my fear", that is not what I mean at all, but I think this person who said my big worry is the fear factor pretty well summed it up and said, "How can we get to know each other?" I think getting to know each other and facing your fear will help to reduce your fear.

Questions 98a – b:

Why won't the town push for special authorities for our police to enforce federal immigration law?

Please elaborate on the immigration enforcement police training, which could be made available. What enforcement capabilities would this training provide?

(ANSWER PROVIDED BY GLEN REYES DURING PANEL Q&A)

I will tell you there is a public law that authorizes the Department of Homeland Security to cross-designate and cross-train state and municipal police officers to enforce immigration laws with certain restrictions and under the guidance of an immigration supervisory special agent. That is up to the community to contact us and we can do that."

New Additional Police Response:

As stated, there is legal authority in federal law for a locality to enter into a memorandum of understanding with the bureau to train police officers and allow them to enforce Federal immigration law in conjunction with the bureau. State law would have to be amended in Virginia in order to allow the Town to enter in such an agreement. Currently, Virginia and Town law restricts Herndon Police officers from enforcing Federal immigration laws. This also applies to arresting contractors at the site who may hire workers that lack proper employment documentation.

99. The proximity of the Van Buren/ Monroe St. site to yet another 7-11 store is another; how to prevent drunk or disorderly conduct? 7-11 at Van Buren will need to employ security guards?

The Herndon Police would work very diligently to ensure that there is no spill over. The police department would support a Town ordinance, such as the, "Anti- Solicitation Ordinance," that would make it illegal to solicit day worker employment from a vehicle and conversely it would be illegal for a day worker to solicit employment from a person in a vehicle. In addition, the police department would work with Virginia ABC to ensure that certain restrictions be placed on the sales of alcoholic beverages, as it pertains to container types.

100. Once a day labor site is created, what do we do with what's left over?

This question was addressed in the response to Question 104, but once a permanent site has been selected and met all the requirements and the appropriate ordinances are in place, the police will enforce the law and take action where appropriate.

101. If there is no day labor site, how will this make the Alabama area safer? Won't moving the day laborer site to the lumberyard move the "troublemakers" out of the Alabama area?

There is a widespread misconception that the day laborers are responsible for most of the calls for service in and around the Alabama Drive area. In fact most of the police calls for service are not crimes committed by day laborers gathering for work. The majority of serious crimes occur in the evening hours.

102. If there is a temporary or permanent day labor site, will 7-11 enforce trespassing violations?

That question can only be answered by the officials of 7-11. It is the Herndon Police Department's intention to strongly suggest and offer its full support to 7-11 if they choose to enforce any violations on their property.

103. It seems that many people are concerned with security in the area of the lumberyard. Does the Police Dept. plan to encourage more Neighborhood Watch programs in that area as they have done so much good in the Hispanic neighborhoods already?

The Herndon Police Department has a very good support system in place to help a community organize a neighborhood watch program. They do everything in their power and resources to offer the training and materials necessary to create a neighborhood watch. It is in the Department's Goals and Objectives, and remains a major piece in the Department's community policing philosophy to make these valuable programs available.

104. Section 2.4 of the town charter talks of an "affirmative finding of the need to protect the public health, welfare, and safety of its citizens". I believe the Herndon police currently stations a police officer at the current site. How can anyone certify that we are protecting public safety if we feel the need to station a police officer there?

The Herndon Police has no officer stationed at the 7-11 (current site). Herndon Police officers are encouraged to visit the area as many times during their shift as possible. The uniformed individuals stationed at the current site are members of a private security firm employed by 7-11.

105. If we do have a regulated labor site, will the current Alabama/7-11 site be patrolled to ensure compliance?

It is anticipated that the Alabama/7-11 site area would require some regular attention for some time to gain compliance. It is difficult to estimate how long it would take at this time.

106. What kind of security (policing) will there be of the site i.e. at night? 24 hour? Who will pay for that security?

The site should not offer any more of a police patrol problem than any other new business opening in Herndon. It is the Department's understanding that the site will be fully contained on the Stanley Martin property and would be housed within a fenced area only open during hours of operation.

LABOR LAW

107. Why do those who seek to use the day labor site not use "traditional" channels used by many others- state services, employment agencies, and newspapers- to find employment? Why must an "alternative economy" be established?

(ANSWER PROVIDED BY TIM FREILICH DURING PANEL Q&A) The main reason we see with folks who come seeking assistance from our program, the language barrier is one of the big ones for folks who are recently arrived who haven't learned English yet. Unfamiliarity with the services that are available. Staffing of the services that exist, like the Department of Labor and Industry for example. That is often one of the benefits, and certainly from our experience, working and looking at the different day laborer sites, one of the benefits of having a formal site is helping people access services. The area that I am an expert in is what walks in our door and the cases that we hear.

108. Does the Town of Herndon have an obligation to make sure employers pay withholding taxes or issue 1099 forms to independent employers for self-employment tax?

No. These matters are handled by State and Federal agencies.

109. Do the day laborers need a Herndon business license to solicit business in the Town of Herndon?

No, these are employees and do not need a business license to serve as employees

110. Can the town be held liable for aiding and abetting because we funded the site where illegal are employed?

The Town would defend itself against such a claim.

111. Isn't it illegal to hire illegal?

(ANSWER PROVIDED BY TIM FREILICH DURING PANEL Q&A) It is unlawful to knowingly hire an individual that lacks work authorization. I have spoken with Reston Interfaith and I have been at a couple of the different hearings. My understanding is that Reston Interfaith and the Town of Herndon certainly will not be hiring any undocumented workers. The employers who visit the site will need to comply with all

federal and state laws including the prohibition on hiring folks who lack work authorization.

112. What has been done in past generations to address day laborers? How does that differ from what we are attempting to do today?

Additional research is required on this issue. This response will be updated accordingly.

113. Why can't contractors be made to follow the law in regard to employing and pay for this labor's insurance, social security, and taxes?

Isn't it illegal for a contractor to hire someone with no papers?

(ANSWER PROVIDED BY TIM FREILICH DURING PANEL Q&A) Day laborer employers are subject to the same enforcement, that is employers of day laborers are subject to the same enforcement as non employers of day laborers. Those agencies, the Department of Labor and Industry, the Virginia Employment Commission, the U.S. Department of Labor are addressing employers alike.

114. What about state and federal law with respect to worker's compensation, etc.?

State and Federal law on workers compensation and wage and hours apply to an employer hiring a day worker for more than a minimal assignment.

Questions 115a – b:

There are construction companies in town that bid on jobs using temporary labor from legitimate agencies, which means that they often must ask a higher price for the work.

Isn't the TOH undermining these businesses by encouraging under the table paid labor?

No. Hopefully from the responses above you will have an understanding of the Town's intentions in finding an alternative to the current informal site at 7-11.

116. To what extent can the "employer" ask the status of a laborer's legality?

Federal and State law prohibit hiring an unauthorized worker. Employers are under a duty to ask for employment authorization in the United States.

HOUSING

Questions 117a – b:

Does the town council ever try to find out how many people, legal or illegal, live in most of the houses in our neighborhoods? Isn't it time to take action on some homeowners who rent their home illegally and make this town overcrowded?

Short of calling in bounty hunters, how can the city better enforce the local ordinances limiting the number of people living in a single residence?

The Town Council has recognized the problem of overcrowding. During recent years, the Town has increased its zoning ordinance and building code enforcement staffs, assembled an interdepartmental enforcement team, and established a new enforcement database in order to address the problems of overcrowding. These efforts continue to be expanded.